

IN THE COURT OF APPEALS OF IOWA

No. 8-587 / 98-0357

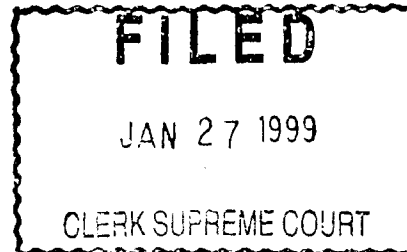
STATE OF IOWA,

Plaintiff-Appellee,

vs.

ANTHONY MAURICE GANT,

Defendant-Appellant.



Appeal from the Iowa District Court for Story County, Dale E. Ruigh, Judge.

Defendant appeals from the judgment and sentence entered upon his guilty plea to extortion. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and David Arthur Adams, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney General, Mary E. Richards, County Attorney, and Angelina M. Smith, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink, Streit, Vogel, and Mahan, JJ.
Zimmer, J., takes no part.

PER CURIAM

Defendant-appellant Anthony Maurice Gant appeals from the judgment and sentence entered after his plea of guilty to extortion in violation of Iowa Code section 711.4 (1997) as a part of a plea bargain resulting in the dismissal of charges for second-degree theft and fourth-degree theft in violation of Iowa Code sections 714.1 and 714.2. Defendant contends there was no factual basis for his plea and his attorney was ineffective in failing to challenge the issue by filing a motion in arrest of judgment. The State advances the issue was not preserved because defendant did not file a motion in arrest of judgment. The State further contends defendant's attorney was effective. We affirm.

The State amended the trial information three times charging defendant with extortion. The final amendment charged defendant:

[T]hreaten[ed] to withhold testimony or information with respect to another's legal claim or to commit the crimes of theft or accessory after the fact and/or threaten[ed] to wrongfully injure the property of another with the purpose of obtaining for oneself or another something of value;

The district court, before defendant's plea, summarized the State's claim as defendant "committed extortion by withholding information from Mr. Graber about the whereabouts of some property that had been stolen from him in return for Mr. Graber's hopefully paying you some money." The district court told defendant the State would have to prove he threatened to withhold information from Graber about the location of his stolen property and defendant made the threat for the purpose of obtaining money from Graber.

Defendant indicated he understood the allegation and admitted he had a conversation with Graber and told him he knew where Graber's stolen property was and he was not going to give Graber the information unless Graber paid him money. Defendant contends his action did not support a finding he was guilty of extortion.

Iowa Code section 711.4 provides, in part:

A person commits extortion if the person does any of the following with the purpose of obtaining for oneself or another anything of value,

....

6. Threatens to testify or provide information or to withhold testimony or information with respect to another's legal claim or defense.

Iowa Code § 711.4(6).

The term "threat" or "threaten" has been defined as promised punishment, reprisal, or other distress to. *See State v. Milner*, 571 N.W.2d 7, 10 (Iowa 1997); *State v. Crone*, 545 N.W.2d 267, 271 (Iowa 1996). Threats need not be explicit, but may be made by innuendo or suggestion. *Crone*, 545 N.W.2d at 271; *see also State v. McGinnis*, 243 N.W.2d 583, 589 (Iowa 1976).

A fact finder could determine defendant threatened Graber with withholding information as to his property or his legal claim. There was a factual basis for the plea. Having so decided, it is unnecessary we address defendant's other claims. We affirm.

AFFIRMED.